

§ 111.16 Denial of license.

(a) *Notice of denial.* If the Commissioner determines that the application for a license should be denied for any reason, notice of denial shall be given by him to the applicant and to the director of the port at which the application was filed. The notice of denial shall state the reasons why the license was not issued.

(b) *Grounds for denial.* The causes sufficient to justify denial of an application for a license shall include, but need not be limited to:

(1) Any cause which would justify suspension or revocation of the license of a broker under the provisions of § 111.53;

(2) The failure to meet any requirement set forth in § 111.11;

(3) A failure to establish the business integrity and good character of the applicant;

(4) Any willful misstatement of pertinent facts in the application;

(5) Any conduct which would be deemed unfair in commercial transactions by accepted standards;

(6) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of such conduct.

§ 111.17 Review of the denial of a license.

(a) *By the Commissioner.* Upon the denial of an application for a license, the applicant may file with the Commissioner of Customs, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Commissioner within 60 days of the denial.

(b) *By the Secretary.* Upon the decision of the Commissioner affirming the denial of an application for a license, the applicant may file with the Secretary of the Treasury, in writing, a request for such additional review as the Secretary shall deem appropriate. This request must be received by the Secretary within 60 days of the Commissioner's affirmation of the denial of an application for a license.

(c) *By the Court of International Trade.* Upon a decision of the Secretary of the

Treasury affirming the denial of an application for a license, the applicant may appeal the decision to the Court of International Trade provided the appeal action is commenced within 60 days after the date of entry of the Secretary's decision.

[T.D. 74-272, 39 FR 37051, Oct. 17, 1974, as amended by T.D. 85-90, 50 FR 21431, May 24, 1985]

§ 111.18 Reapplication for license.

An applicant who has been denied a license may reapply at any time by complying with the provisions of § 111.12 of this part.

§ 111.19 Permits.

(a) *General.* Each person granted a broker's license under this part shall be concurrently issued a permit for the district through which the application was submitted, without the payment of the fee required by § 111.96 if it is shown to the satisfaction of the port director that the person intends to transact customs business within the district through which the broker's license application is submitted and the person otherwise complies with the requirements of this part.

(b) *Submission of application for permits for additional ports.* A licensed person who intends to conduct customs business at additional customs ports, or a licensed person who was not concurrently granted a permit with the broker's license under paragraph (a) of this section, shall submit an application for each additional port to the director of that port on Customs Form 3124. If the information set forth by the applicant on the Customs Form 3124 submitted pursuant to § 111.12 is current, a copy of that application may be submitted in place of a new Customs Form 3124. The Customs Form 3124 shall be modified to indicate that it is an application for a permit. The applicant shall comply with the requirements set forth in § 111.12(a). Each application for a permit shall identify the broker's license number and date of issuance. The broker shall list in its application all ports for which a permit has been granted. When a broker applies for a permit at additional customs ports, he must provide the director of that port with a document which

reserves the business name with the state or local government, in order to avoid the use of the same or a confusingly similar name by two brokers.

(c) *Fee.* Each application for a permit shall be accompanied by the fees set forth in § 111.96.

(d) *Responsible supervision and control.* The applicant shall have a place of business at the port where the application is filed, or shall have made firm arrangements satisfactory to the port director to establish such a place of business. The applicant shall exercise responsible supervision and control over the office as defined by § 111.11(d). On and after October 31, 1987, other than as provided below, the applicant shall employ in each district for which a permit is granted at least one individual licensed under this subpart to exercise responsible supervision and control over the customs business conducted in the district. If the applicant can demonstrate to the satisfaction of the Commissioner that he regularly employs, in the region in which the district is located, at least one individual who is licensed, and that adequate procedures exist for the person employed in that region to exercise responsible supervision and control, as defined by § 111.11(d), over the customs business conducted in the district, the Commissioner may waive the requirement for a licensed broker in that district. A request for a waiver, supported by information on the volume and type of customs business conducted, or planned to be conducted, and evidence demonstrating that the applicant is able to exercise responsible supervision and control, shall be sent to the port director in the district in which the waiver is sought. The port director shall review the request for a waiver and make recommendations which will be sent to the Office of Field Operations, Customs Headquarters.

(e) *Action on application.* Upon receipt of the application for a permit, the district director shall immediately notify the district director in each other district in which the applicant has a permit and request comments as to the applicant's compliance with the duties and responsibilities of a broker in the other district. The district director in the other district shall timely submit

his comments and recommendation to the district director making the request. The district director who received the application shall make a decision on it after considering all of the facts and circumstances. An application shall be approved unless action is pending in another district to suspend or revoke the applicant's license.

(f) *Investigation.* The district director may require an investigation to be conducted if additional facts are deemed necessary before making a decision upon the application.

[T.D. 86-161, 51 FR 30341, Aug. 26, 1986, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 95-77, 60 FR 50019, Sept. 27, 1995; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

Subpart C—Duties and Responsibilities of Customs Brokers

§ 111.21 Record of transactions.

(a) Each broker shall keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He shall keep and maintain on file copies of all his correspondence and other records relating to his Customs business.

(b) Each broker shall comply with the provisions of this part and part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(c) Each broker shall designate a knowledgeable company employee to be the contact for Customs for broker-wide customs business and financial recordkeeping requirements.

[T.D. 70-134, 35 FR 9254, June 13, 1970, as amended by T.D. 86-161, 51 FR 30341, Aug. 26, 1986; T.D. 98-56, 63 FR 32945, June 16, 1998]

§ 111.22 [Reserved]

§ 111.23 Retention of records.

(a) *Place and period of retention—(1) Place.* Records shall be retained by a broker in accordance with the provisions of this part and part 163 of this chapter within the broker district that covers the Customs port to which they relate unless the broker chooses to consolidate records at one or more other locations, and provides advance